IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PAUL DEL GROSSO and ESTHER DEL GROSSO, Plaintiffs, vs. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY and STATE FARM FIRE & CASUALTY CO., Defendants.	))))))))))	Case No. 4:09-CV-01940CAS

TRIAL BRIEF

In Missouri, if a vehicle drops an object on a public highway, that vehicle violates Missouri statute §307.101. Violation of this statute establishes *per se* negligence of the vehicle's operator. Statute §307.101 states:

"All motor vehicles…operating upon the public highways of this state and carrying goods…which may reasonably be expected to become dislodged and fall…as a result of wind pressure or air pressure and/or by the movement of the vehicle…shall…be sufficiently secured so that no portion of such goods or materials can become dislodged and fall from the vehicle."

In *Pfoutz v. State Farm*, 861 F.2d 527 (C.A.8 (Mo.), 1988), the Eight Circuit ruled that violation of this statute provides evidence of the operator's negligence sufficient to satisfy the Missouri's uninsured motorist statute under a *res ipsa* theory.

In the current case, a *res ipsa* theory is not necessary, as a witness testified that he saw the straw wattles fall of the back of the uninsured motorist's vehicle. Plaintiffs will ask that the Court take judicial notice that the driver of the uninsured vehicle was *per se* negligent for violating §307.101.

ANDERSON & ASSOCIATES
Attorneys for Plaintiff

By _____
JOHN D. ANDERSON; MO #25568;
Fed #12622; ja@hurthelp.net
NICOLE BURLISON KNEPPER; MO #60025;
Fed #1592944; nb@hurthelp.net
911 Washington Avenue, Suite 400
St. Louis, MO 63101
(314) 621-5534; Fax (314) 621-6941